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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,231	10/19/2000	Christen M. Frankle	S-94,660	5020

7590

07/09/2003

Assistant General Counsel for Technology
Transfer and Intellectual Property
GC-62 (FORSTL) MS 6F-067, USDOE
1000 Independence Avenue SW
Washington, DC 20585

EXAMINER

HARVEY, MINSUN OH

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 07/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/691,231

Applicant(s)
FRANKLE

Examiner
MINSUN HARVEY

Art Unit
2644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-18 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 7, 8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Deissler.

Deissler discloses a device for assisting speech and which is comprised of a thin-walled, hollow tube capable of transmitting vibrations caused by speech (14 and col. 3, lines 6 to 12), the tube having cutouts in each end such that each end will fit to the front of a person's neck in the voice box area (20 and col. 1, lines 59 to 60).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5 to 6, 9 to 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deissler.

Regarding claims 2 and 5 to 6, Deissler does not disclose that the tube is in the range from about 10 cm to about 40 cm, from about 2 cm to about 8 cm, and from about .5 mm to

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about 5 mm. Even though Deissler does not disclose exact length of the tube as claimed, it would have been obvious to have length of tube as claimed because it would have been a designer's choice to design the tube as certain length.

Regarding claims 9 to 10, Deissler does not disclose that the tube is made of cardboard and of plastic. Even though Deissler does not disclose such materials for the tube, it would have been obvious to use cardboard and plastic to make tube because both materials are all well known materials for manufacturing a tube.

5. Claims 12 to 18 are allowable over prior art of record.
6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to **Minsun Oh Harvey** whose telephone number is **(703) 308-6741**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Bill Isen**, can be reached at **(703) 305-4386**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

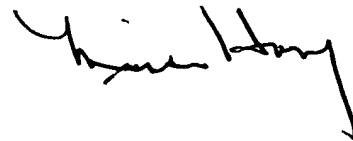
Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist)

Any inquiry of general nature or relating to the status of this application or proceeding
should be directed to the Technology Center 2600 Customer Service Office whose telephone
number is (703) 306-0377.

A handwritten signature in black ink, appearing to read 'Minsun Oh Harvey', with a long, sweeping horizontal stroke extending to the right.

**MINSUN OH HARVEY
PRIMARY EXAMINER**